

REMARKS

The Office Action has rejected the subject matter of claims 13 to 16 as not finding support in the specification. Specifically, the Office Action states that R1 and R2 as separately being C1-C10 alkylene group does not find support in the original specification. Applicants respectfully disagree. Support for the aforementioned limitation is found at least on page one, line 8 of the specification which reads that "R1 and R2 are the same or different." Applicants respectfully traverse the rejection and request its withdrawal.

The Office Action states that the definition of R1 and R2 as separately being a C1-C20 alkylene group is confusing, as each alone is a monovalent group. Applicants respectfully disagree. One of skill in the art would easily understand the definition of R1 and R2 as separately being a C1 to C20 alkylene. Applicants respectfully request that the examiner withdraws the rejection.

The Office Action rejected claims 13-16 as being anticipated by WO 99/21936, specifically that each of the polymers of cited application are defined in present claim 17 wherein  $p=0$ . The working examples in the art cited can maintain service lives in excess of 1000 hours only if very low voltages are applied (e.g. 3V), and there is not a disclosure that increasing voltage would

allow the device to maintain the same life span. Therefore, the applicants contend that WO 99/21936 does not disclose the same invention. Applicants have modified the recitation of claim 17 to exclude polymers where  $p=0$ . Based on the foregoing, Applicants respectfully traverse the rejection and request its withdrawal.

The Office Action has also rejected claims 17 to 20 as being anticipated by WO 99/24526. Specifically, the Office Action states that there are structural similarities and that these structural similarities necessitate that a device made with such a polymer would have the same limitations found in present claims 17-20. The Office Action also states that prior art polymer P2 consists of the same repeating unit as the formula C2 on page 13 of the specification. Applicants respectfully disagree. The cited references (P2 and P8) contain a dimethyloctyloxy and the polymers of the instant case cited by the Examiner (C2 and C8) contain a dimethylhexyloxy. Finally, similarities, if any, do not constitute grounds for rejection under § 102 since the prior art must explicitly or inherently recite all elements in order to satisfy the conditions required of such a rejection. In the present case, the prior art does not necessarily dictate that these polymers will act as required in the present invention. Therefore Applicants contend that WO 99/24526 does not disclose the same invention as disclosed by

Applicants. At least for the aforementioned reasons, Applicants respectfully traverse the rejection and request that it be withdrawn.

The Office Action further rejects claims 13-20 as unpatentable over WO 99/21936 as applied to claims 17-20 above and for reason of record. Applicants respectfully disagree. The prior art cited does not specifically disclose, polymers of the present formula (C1) wherein  $p = 1, 2, \text{ or } 3$ , and there is no suggestion in the art to make the polymers contained in claims 13 through 17. Nevertheless, in order to further prosecution, Applicants have amended the claims to exclude  $p=0$ . For the reasons previously stated, one of ordinary skill in the art would be motivated to combine the features of the cited inventions and arrive at the instant invention. Nor does the cited reference teach, suggest or motivate one to make the Applicant's present invention.

Furthermore, in order to advance prosecution claim 17 has been amended to delete the recitation  $p=0$ . In view of the foregoing amendments and remarks it is respectfully submitted that the currently-pending claims, as herein amended, contain no commonality whatsoever with the teachings of the cited and applied references. One of ordinary skill in the art, lacking the benefit of impermissible hindsight derived from the instant disclosure, would not be motivated to use such materials as

polymers of the instant case.

The Office Action rejects claims 13-20 under the judicially created doctrine of obviousness-type double patenting over claims 1 to 7 in US Patent No. 6,743,525. Applicants respectfully disagree and request that the examiner withdraw the rejection. The claims of the instant application are substantially broader in allowing the unit -X- to represent -O-. In addition the present claims do not explicitly allow R1 and R2 together to constitute the same alkylene group. For the same reasons, claim 6 of the patent and present claim 17, are not drawn on the same invention, nor do they teach, suggest or motivate one to create the Applicants invention and respectfully request that the Examiner withdraw the rejection.

Claims 15 and 17 have been amended to reflect changes requested by the examiner.

Accordingly, it is respectfully submitted that claims 13-20 as herein amended, are now in condition for allowance, and favorable consideration is earnestly solicited.

Respectfully submitted,

By 

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